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ABSTRACT

This document presents the testimony of Arnold P. Jones, Senior Associate Director of the United States General Accounting Office, before the Senate Subcommittee on Immigration and Refugee Affairs, on the Immigration Reform and Control Act of 1986. The Act established a legalization program that permits undocumented aliens to become permanent residents. Aliens have until May 4, 1988 to apply for residence; Congress is considering extending the deadline. However, extending the deadline may not encourage these aliens to apply for residency because of the following reasons: (1) no reliable data exist to forecast the number of aliens who will apply; (2) The 1.3 to 1.5 million expected applicants are fewer than the initial forecast of 2 to 3.9 million made by the Immigration and Naturalization Service (INS); (3) awareness of the legalization program is high among Hispanics, according to a study that addressed program awareness; (4) extending the deadline may require appropriating additional funds; (5) the operational problems that exist do not threaten the program's viability; (6) the program has similarities to other countries' legalization programs; and (7) studies by others provide reasons why some aliens have not applied. (BJV)

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Immigration Reform: Implementation of Legalization Program

Statement of
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General Government Division

Before the
Subcommittee on Immigration and Refugee Affairs
Committee on the Judiciary
United States Senate

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IMPLEMENTATION OF LEGALIZATION PROGRAM

SUMMARY OF STATEMENT BY
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The Immigration Reform and Control Act of 1986 established a legalization program that permits undocumented aliens to become permanent residents. They have until May 4, 1988, to apply. Congress is considering extending the deadline. No reliable data exists to forecast the number of eligible aliens who have not applied or will apply, if the deadline is extended. Therefore, we have no basis to challenge or support extending the deadline. In addition, studies by others provide reasons why some aliens have not applied. However, extending the deadline may not encourage these aliens to apply. In summary:

-- The 1.1 million applications filed with the Immigration and Naturalization Service (INS) is less than its initial forecast of 2 to 3.9 million. INS is now estimating it will receive 1.3 to 1.5 million applications, which is about the same as the Congressional Budget Office's estimate.

-- Awareness of the legalization program is high among Hispanics, according to a study that addressed program awareness.

-- INS estimates that the application fees will cover program costs if the deadline remains May 4, 1988. However, extending the program may require appropriated funds, if fees are significantly less than program costs.

-- Based on our review, the operational problems that exist do not threaten the program's viability.

-- The program has similarities to other countries' legalization programs.

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss our review of the Immigration and Naturalization Service (INS) implementation of the legalization program for certain undocumented aliens.

BACKGROUND

Title II of the Immigration Reform and Control Act of 1986 (IRCA) established a legalization program (amnesty) to provide legal status to aliens who have continuously resided in the United States illegally since before January 1, 1982. Aliens have until May 4, 1988, to apply to INS for legalization. If approved, aliens would be granted temporary resident status. Eighteen months later they can apply for permanent resident status and eventually they could become U.S. citizens. Legislation (H.R. 3816 and S. 2015) has been introduced to extend the deadline.

When applying for legalization, aliens have to provide documents as part of their applications. These include proof that they lived in the United States continuously since before January 1, 1982, and can support themselves. Also, they have to include the results of their medical examinations and a set of their fingerprints.

In May 1987, INS opened 107 legalization offices to receive and begin processing applications and four regional processing facilities to complete final processing of applications. In

addition, it contracted with a private data processing center to enter data from applications into its computer system (legalization adjustment processing system or LAPS).

IRCA requires that applicants pay fees that would cover the program expenses. The legislative history indicates that Congress intended that the fee charged be comparable to the fee charged aliens applying to enter the United States as immigrants. To make the fees comparable and still cover its program expenses, INS set the filing fee for temporary residence at $185 for each adult and $50 for each minor child, with a $420 maximum fee for families. In addition to the filing fee, aliens pay for services such as fingerprints, photographs, and medical examinations.

To encourage undocumented aliens who might fear coming to INS directly, IRCA permits aliens to file their applications with community organizations, called Qualified Designated Entities (QDEs),[1] in lieu of applying directly to INS. These entities usually provide services in the local communities and are known to the aliens who reside there. According to INS, approximately 980 QDEs signed agreements to participate in the program. Two-thirds of the QDEs are affiliated with parent organizations, called National Coordinating Agencies (NCAs), such as the U.S.

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[1]Undocumented aliens may also engage lawyers to assist them in preparing their applications.

Catholic Conference and World Relief, and one-third are independent.

We recently reviewed INS' activities to implement the legalization program to determine its status. We did our work in INS' Los Angeles and New York District Offices. We also discussed the program with INS staff from its Western and Eastern Regional Offices and Processing Facilities. We met with officials at 10 legalization offices and 9 QDEs. Also, we met with representatives of the NCAs during two of their regular meetings with INS and reviewed the minutes of their meetings. We also reviewed studies on reasons why aliens are not applying for the program, literature on amnesties conducted in five other countries, and other studies on legalization.

In summary:

-- The 1.1 million applications filed with INS is less than its initial forecast of 2 to 3.9 million. INS is now estimating 1.3 to 1.5 million applications, which is about the same as the Congressional Budget Office's (CBO) estimate.

-- Awareness of the legalization program is high among Hispanics, according to a study that addressed program awareness.

-- Studies by several organizations provide reasons why some aliens have not applied, and INS and some organizations have

taken actions to reduce the impact of these factors. Extending the deadline may not encourage these aliens to apply.

-- INS estimates that the application fees will cover program costs, if the deadline remains May 4, 1988. However, extending the program may require appropriated funds if fees are significantly less than program costs.

-- Although operational problems exist, they do not threaten the program's viability.

-- The program has similarities to other countries' legalization programs.

No reliable data exists to forecast the number of eligible aliens who have not applied or will apply, if the deadline is extended. Because of the above factors, we have no basis to challenge or support extending the program deadline.

PROJECTED AND ACTUAL
LEGALIZATION APPLICANTS

No reliable data exists on the number of undocumented aliens in the United States or on the number eligible for the program. Using 1980 Census data and estimates obtained from its field offices and QDEs, INS projected it would receive 2 to 3.9

million applications, of which 80 percent would be filed at QDEs. CBO estimated that 1.4 million aliens would be granted temporary resident status.

As of March 25, 1988, a total of 1.1 million applications had been filed. INS expects between 1.3 and 1.5 million applications will be filed by May 4, 1988.

To try to increase the number of applications, INS made two changes in procedures for the final month of the program.

-- It will pay QDEs and NCAs a recruiter fee for each applicant directed to a legalization office. This approach pays the organizations for their outreach efforts.

-- It will not require aliens to submit documentation and medical information to support their applications for at least 60 days after they file completed applications and pay their filing fees. This gives aliens time beyond the May 4 deadline to gather support for their applications.

As of March 25, INS' Western Region had received about 60 percent of the applications filed nationwide. Forty-six percent of the nationwide applications (510,755) were from the Los Angeles District. As of February 19, most of the applicants nationwide (about 70 percent) were from Mexico. About 81 percent of

applicants filed directly with INS, while about 19 percent filed with QDEs.

PUBLIC EDUCATION EFFORTS

In our opinion, INS is making a good faith effort to publicize the legalization program. INS contracted with The Justice Group, a consortium of three companies, to advertise the program. From April through October 1987, the advertising was general and informative in nature. No advertising was done in November and December because INS did not want to compete with holiday advertising. A more persuasive advertising effort was started January 15, 1988, and was scheduled to continue through May. It was based on research studies funded by INS so that advertising would be targeted to different ethnic groups in various parts of the country.

INS has also pursued other public education activities. For example, its headquarters and field officials have participated in ethnic days and traveled in mobile offices to remote areas to provide information and process applications.

Under the terms of their agreements with INS, NCAs have responsibility to distribute public information materials prepared by INS. QDEs are to publicize their facilities locally. In their reports to INS, many NCAs outlined public information activities that went beyond this responsibility. For example,

they and their QDE affiliates produced public service announcements for radio and television. They printed brochures and participated in media discussions on legalization. During an April 1988 meeting, NCA members told us INS could have improved its initial efforts through such activities as providing QDEs with more printed material on the legalization program.

Awareness that a legalization program exists appears to be high, at least among undocumented Hispanics. In October and November 1987, Nustats, Inc., did a research study for The Justice Group. Using a combination of sampling techniques, the study found that 92 percent of undocumented Hispanics were aware that a legalization program exists. The results from this study are considered, by Nustats and us, likely to be similar to the views of the U.S. Hispanic illegal alien population.

STUDIES ON REASONS ELIGIBLE ALIENS HAVE NOT APPLIED

Four studies and the views of NCA officials provided similar reasons why some eligible aliens did not apply for legalization. However, extending the deadline may not overcome them.

The Nustats study said that perceived ineligibility by aliens was the most commonly cited reason for not applying. About half of the 143 Spanish speaking, undocumented aliens who had not applied cited this as a reason. Nustats could not determine whether or

not they were indeed ineligible. Other reasons the Nustats study found that aliens were not applying (in order of their frequency) were: (1) they do not have the money, (2) they do not know how to apply, (3) they are afraid of INS, and (4) they fear family separation.

We reviewed three other studies[2] that surveyed legalization applicants, other community service providers, and QDE directors or immigration lawyers. While each of the three studies had limitations that prevented the results from being projected beyond the people surveyed, their results were similar to Nustats'. All of the studies listed lack of documentation to support their application, fear of INS, and costs as major factors precluding people from applying. Two of the three also listed confusion about the program or law, and fear of family separation as factors.

In their quarterly reports to INS, some NCAs cited similar reasons and added that some aliens lack a sense of urgency and do not believe legalization is necessary. During an April 1988 meeting, NCA members told us that some of INS' rulings on eligibility may have caused aliens not to apply. They pointed out that INS is considering revising some of its initial decisions which could result in aliens now being eligible.

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[2]The studies were done by the Dallas Times Herald, the National Association of Latino Elected and Appointed Officials, and the Private Immigration Agency.

INS and some private organizations have taken actions to help address the reasons why some eligible aliens are not applying. For example, INS' Western Region has expanded its education efforts as the application deadline approaches. With respect to concerns that families may be separated because some members do not qualify, INS has said that such cases will be addressed on an individual basis and that no families have been separated. One private organization is providing 10 percent interest loans to aliens for the application costs. However, fewer aliens then expected have taken advantage of them.

INS COSTS AND FEES

As of March 1988, INS had spent about $150 million and had collected $176.2 million in fees. While fees have exceeded costs, additional costs will be incurred for those applications that INS has not processed. Such costs include checking the aliens' backgrounds with other agencies (e.g., Federal Bureau of Investigation). INS projects that the total fees that it will receive by the end of the application period (May 4, 1988) will cover all of the program-related costs. Should this not occur, INS will adjust the fees aliens pay when they apply for permanent resident status.

If the program is extended beyond May 4, 1988, the ability of the application fees to cover the costs to continue the program is not known. This is because no reliable data exists to estimate

the number of aliens who may apply during the extension. Depending on the number of applications, the program may require appropriated funds or may result in a surplus of funds.

OPERATIONAL PROBLEMS

When INS began processing applications, several operational problems developed. As INS gained additional experience in processing applications, some of the initial problems related to office procedures and data entry into its information system were overcome. Also, INS staff worked overtime to reduce its case backlog. As of April 2, 1988, INS had reduced the percentage of unprocessed applications to about 25 percent from about 45 percent as of February 18, 1988. However, internal control weaknesses exist in some legalization offices such as: (1) temporary residency cards are not safeguarded and (2) INS has no assurance that fingerprint cards submitted with applications contain the fingerprints of the applying alien. These problems do not threaten the program's viability.

COMPARISON OF U.S. LEGALIZATION PROGRAM

TO OTHER COUNTRIES' PROGRAM

Many key elements of the U.S. legalization program are similar to programs in five other countries[3] conducted over the last 15 years. However, some of the requirements under IRCA are stricter than those in the other countries' programs.

The U.S. program requires an alien to have lived here illegally for more than 5 years, and it requires that they pay application fees. In the other countries, an alien needed an average of 9.3 months of residence to qualify. Only one other country (Australia) required aliens to pay an application fee.

The U.S. period for filing applications is at least 6 months longer than the others. Only one country (France) extended its original application deadline. The extension was for two weeks.

This concludes my prepared statement. I would be pleased to answer any questions the subcommittee may have.

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[3]Argentina, Australia, Canada, France, and Venezuela.